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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,728	10/19/2001	Gordon Timothy Burstein	43197.240364	2255
826	7590	04/08/2005		EXAMINER
ALSTON & BIRD LLP			PHASGE, ARUN S	
BANK OF AMERICA PLAZA				
101 SOUTH TRYON STREET, SUITE 4000			ART UNIT	PAPER NUMBER
CHARLOTTE, NC 28280-4000				1753

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/039,728	BURSTEIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Arun S. Phasge	1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 January 2005.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 14 is/are allowed.

6) Claim(s) 1,2, 7, 9-13 and 15-18 is/are rejected.

7) Claim(s) 3-6 and 18 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

### DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 102*

Claims 1, 2, 7, 12, 13, 15-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Yuji Japanese patent Jp62158898 of record for reasons of record.

Claims 1, 2, 7, 12, 13 and 15 stand rejected under 35 U.S.C. 102(b) as being anticipated by Shinichi, Japanese patent JP60128288 of record for reasons of record.

Claims 1, 2, 7, 12, 13, 15-17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Gilroy of record for reasons of record.

#### *Claim Rejections - 35 USC § 103*

Claims 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gilroy of record for reasons of record.

#### *Response to Arguments*

Applicant's arguments filed 1/14/05 have been fully considered but they are not persuasive.

Applicants argue that the references do not disclose that the treatment modifies the metallic structure of the metal at and below the surface of the metal, since they merely form a coating on the metal surface.

The references disclose the treatment of the metal, which would modify the surface, since the chromating or coloring of the metal does modify the metal (see Abstract of the Japanese patents and the abstract of the Gilroy reference). The treatment would further occur below the surface of the metal, since there will be some migration of the chromium into the metal just below the surface from the surface, which would read upon the modification below the surface.

Applicants cite the specification to show that the modification may involve "phase transformation" or "relaxation of stresses" of the metal surface. This has no basis in the claims, and the specification cannot be read into the claims.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

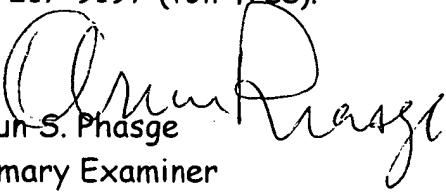
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the

advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Phasge whose telephone number is (571) 272-1345. The examiner can normally be reached on MONDAY-THURSDAY, 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Arun S. Phasge  
Primary Examiner  
Art Unit 1753

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